

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOEY GRIFFIN,

Plaintiff,

**7:12-cv-976
(GLS/ESH)**

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social
Security,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Olinsky Law Group
300 S. State Street
5th Floor, Suite 520
Syracuse, NY 13202

HOWARD D. OLINSKY, ESQ.

Legal Aid Society of
Northeast New York
55 Colvin Avenue
Albany, NY 12206

MICHAEL J. TELFER, ESQ.

FOR THE DEFENDANT:

HON. RICHARD S. HARTUNIAN
United States Attorney
100 South Clinton Street
Syracuse, NY 13261

KRISTINA D. COHN
MARIA P. FRAGASSI
SANTANGELO
Special Assistant U.S. Attorneys

Steven P. Conte
Regional Chief Counsel
Social Security Administration
Office of General Counsel, Region II

26 Federal Plaza, Room 3904
New York, NY 10278

Gary L. Sharpe
Chief Judge

MEMORANDUM-DECISION AND ORDER

I. Introduction

Plaintiff Joey Griffin challenges defendant Commissioner of Social Security's denial of Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI), seeking review under 42 U.S.C. §§ 405(g) and 1383(c)(3). (Compl., Dkt. No. 1.) In a Report and Recommendation (R&R) filed September 18, 2013, Magistrate Judge Earl S. Hines recommended that the Commissioner's decision be affirmed and Griffin's complaint be dismissed.¹ (R&R, Dkt. No. 18.) Pending are Griffin's objections to the R&R. (Dkt. No. 19.) For the reasons that follow, the court adopts the R&R in its entirety.

II. Background²

On January 29, 2009, Griffin filed applications for DIB and SSI

¹ The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed. (Dkt. No. 18.)

² The court incorporates the factual recitations of the parties and Judge Hines. (Dkt. Nos. 12, 15; see *a/so* Admin. Tr., Dkt. No. 9.)

under the Social Security Act. (R&R at 2; Tr.³ at 53-54, 101-12.) After his applications were denied, Griffin requested a hearing before an Administrative Law Judge (ALJ), which was held on July 27, 2010. (Tr. at 33-52, 55-62, 65-67.) On September 22, 2010, the ALJ issued a decision denying the requested benefits, which became the Commissioner's final determination upon the Social Security Administration Appeals Council's denial of review. (*Id.* at 5-9, 18-31.)

Griffin commenced the present action by filing his complaint on June 15, 2012 seeking judicial review of the Commissioner's determination. (Compl.) After receiving the parties' briefs, Judge Hines issued an R&R recommending that the Commissioner's decision be affirmed. (See *generally* R&R.)

III. Standard of Review

By statute and rule, district courts are authorized to refer social security appeals to magistrate judges for proposed findings and recommendations as to disposition. See 28 U.S.C. § 636(b)(1)(A), (B); N.D.N.Y. L.R. 40.1, 72.3(d); General Order No. 18. Before entering final

³ Page references preceded by "Tr." are to the Administrative Transcript. (Dkt. No. 9.)

judgment, this court reviews report and recommendation orders in cases it has referred to a magistrate judge. If a party properly objects to a specific element of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484GLS, 2006 WL 149049, at *3, *5 (N.D.N.Y. Jan. 18, 2006). In cases where no party has filed an objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and recommendations of the magistrate judge for clear error. See *id.* at *4-5.

IV. Discussion

Griffin purports to object to the R&R on two grounds. First, he asserts that Judge Hines improperly found that the ALJ's residual functional capacity determination was supported by substantial evidence, and, second, he argues that Judge Hines' "[s]tep [five] recommendation should be rejected." (Dkt. No. 19 at 1-3.) The substance of these arguments, however, was previously raised in Griffin's brief and considered and rejected by Judge Hines. (Dkt. No. 12 at 10-13, 20-21; R&R at 6-14, 24-27.) Griffin's "objections," therefore, are general and do not warrant *de*

novo review. See *Almonte*, 2006 WL 149049 at *4. The court, having carefully reviewed the record, finds no clear error in the R&R and accepts and adopts it in its entirety.

V. Conclusion

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that Magistrate Judge Earl S. Hines' September 18, 2013 Report and Recommendation (Dkt. No. 18) is **ADOPTED** in its entirety; and it is further

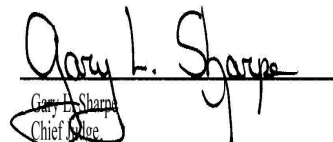
ORDERED that the decision of the Commissioner is **AFFIRMED** and Griffin's Complaint (Dkt. No. 1) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case; and it is further

ORDERED that the Clerk provide a copy of this Memorandum-Decision and Order to the parties.

IT IS SO ORDERED.

January 27, 2014
Albany, New York



Gary L. Sharpe
Chief Judge
U.S. District Court